

# Disciplinary Actions

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## Disciplinary Actions Reported For April

NASD Regulation, Inc. (NASD Regulation<sup>SM</sup>) has taken disciplinary actions against the following firms and individuals for violations of National Association of Securities Dealers, Inc. (NASD<sup>®</sup>) rules; federal securities laws, rules, and regulations; and the rules of the Municipal Securities Rulemaking Board (MSRB). The information relating to matters contained in this *Notice* is current as of the end of March 2002.

### **Firm Expelled, Individuals Sanctioned**

**Barron Chase Securities (CRD #18969, Boca Raton, Florida), Robert Thomas Kirk, Jr. (CRD #1204425, Registered Principal, Parkland, Florida), and Brian Dean Fitzgerald (CRD #1259552, Registered Principal, Boca Raton, Florida)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was expelled from NASD membership and Kirk was barred from association with any NASD member in any capacity. Fitzgerald was fined \$7,500, suspended from association with any NASD member in any capacity for 30 days, and ordered to requalify by exam for the Series 24 license before acting again in a principal capacity. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm acted as lead managing underwriter for many initial public offerings (IPOs), that the firm and Kirk failed to ensure that the prospectus for an IPO was not false and misleading, and that they failed to amend the prospectus to reflect material changes in the offering and the use of IPO proceeds.

The findings also stated that the firm, acting through Kirk, engaged in continuing distributions of other IPOs while maintaining a market, bidding for, and purchasing the stock and warrants prior to the completion of the distribution. The firm transferred the IPO balances from the firm's syndicate account to its trading account and continued the distribution of IPO securities while the firm maintained a market in the securities and sold the securities to the firm's public customers at prevailing higher aftermarket prices. The NASD found that Kirk failed to inform the firm's brokers or customers that the firm had withheld IPO shares and warrants, made the inventory transfers of the IPO securities, and sold the IPO shares and warrants to the customers at inflated aftermarket prices. In addition, the NASD found that Fitzgerald assisted in the firm's and Kirk's violations of Regulation M by opening aftermarket trading in securities before their distribution was completed and transferring the IPO securities from the firm's syndicate account to its trading account without verifying that these distributions were complete. Moreover, Fitzgerald assisted the firm's and Kirk's violation of the Freeriding and Withholding Interpretation by failing to verify that the firm maintained inventory balances in the IPO securities. Furthermore, the NASD found that Kirk failed to respond to NASD requests to provide information and documents and to appear to give testimony.

Fitzgerald's suspension began April 1, 2002, and will conclude at the close of business April 30, 2002. **(NASD Case #CAF020008)**

## **Firms Fined, Individuals Sanctioned**

**J. Alexander Securities, Inc. (CRD #7809, Los Angeles, California) and James Alexander (CRD #2762, Registered Principal, Los Angeles, California)** submitted a Letter of Acceptance, Waiver, and Consent in which they were fined \$62,500, jointly and severally. In addition, the firm was censured and fined \$7,500, jointly and severally, with another individual, and Alexander was suspended from association with any NASD member in a principal capacity for 30 days. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that they permitted an individual who was barred from associating with any NASD member in any capacity to function as an associated person. The findings also stated that the firm failed to establish, modify, or revise its written supervisory procedures to be in compliance with NASD Conduct Rule 3010. Furthermore, the NASD determined that the firm permitted individuals associated with the firm to perform the duties of registered persons while their registration status with the NASD was inactive due to their failure to timely complete the Regulatory Element of the NASD's Continuing Education Requirement.

Alexander's suspension began March 18, 2002, and will conclude at the close of business April 16, 2002. **(NASD Case #C02020007)**

**vFinance Investments (CRD #25121, Boca Raton, Florida) and Steven David Schwartz (CRD #832419, Registered Principal, Mt. Laurel, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and

fined \$70,000, jointly and severally. The firm was fined an additional \$5,000 and Schwartz was fined an additional \$10,000, barred from association with any NASD member in any principal or supervisory position, and suspended from association with any NASD member in any capacity for 30 days. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Schwartz, issued transaction confirmations to public customers that were materially inaccurate in that they failed to disclose its capacity in the transactions as "dual agent" when acting as principal and failed to disclose the markup or markdown it derived in addition to the disclosed commission. The findings also stated that the firm failed to meet the requirements of NASD Conduct Rule 2320(g) in non-Nasdaq securities transactions. In addition, the NASD found that the firm failed to properly report through the Automated Confirmation Transaction Service® (ACT®) transactions in National Market System securities, Nasdaq SmallCap<sup>SM</sup> securities, and over-the-counter (OTC) Equity securities; failed to timely report certain trades; improperly aggregated certain trades into a single report; reported an incorrect volume for certain trades; failed to accept or decline transactions in ACT in eligible securities within 20 minutes after execution; and failed to report to ACT the correct symbol indicating whether the firm executed transactions in eligible securities in a principal or agency capacity.

Moreover, the NASD found that the firm, acting through Schwartz, failed to disclose in writing to public customers information regarding payment for order flow in which the firm acted as agent

and, in penny stock transactions, failed to provide public customers a penny stock risk disclosure document and obtain a manually signed and dated written acknowledgement of receipt of the document from the customers. Furthermore, the firm failed to cause its director of investment banking to become registered as a general securities principal or to preclude him from performing functions and activities requiring registration in that capacity. The NASD also found that the firm participated in public offerings of securities that traded in the immediate aftermarket and failed to comply with IM-2110-1 in that in each offering the firm effected sales and retained securities that were part of the offering in firm accounts. In addition, the NASD found that the firm submitted materially false and inaccurate Free-Riding and Withholding Questionnaires to the NASD and failed to transmit funds from investors to whom it sold units to a bank escrow account or to deposit the funds into a separate bank account as agent or trustee. Finally, the NASD found that the firm and Schwartz failed to establish a supervisory system, and failed to establish and maintain written policies and procedures reasonably designed to prevent the above violations.

Schwartz' suspension began March 18, 2002, and will conclude at the close of business April 16, 2002. **(NASD Case #C9A020007)**

**Firms And Individuals Fined**  
**Barington Capital Group, L.P. (CRD #29383, New York, New York), Jerome Snyder (CRD #602640, Registered Principal, Fair Haven, New Jersey), and John Davis Telfer (CRD #1099745, Registered Principal, Floral Park, New York)** submitted

a Letter of Acceptance, Waiver, and Consent in which they were censured. The firm was fined \$10,000, jointly and severally, with Snyder, and was fined \$10,000, jointly and severally, with Telfer. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that, in connection with the firm's purchase of active accounts from another member firm, Barington Capital did not have new account forms for any of the accounts and, in many instances, the brokers' books were missing other essential information from the accounts. The findings also stated that the firm failed to provide public customers with required penny stock risk disclosures and the required market and price information regarding each of their penny stock holdings on their monthly account statements. Snyder and Telfer were the principals responsible for the firm's new account review, recordkeeping, and oversight of the firm's penny stock transactions. **(NASD Case #C10020024)**

**Winslow, Evans & Crocker, Inc. (CRD #29686, Boston, Massachusetts) and Peter Laverack Winslow (CRD #470119, Registered Principal, Essex, Massachusetts)** submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$12,000, jointly and severally. The firm was also fined an additional \$10,000. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm operated its business as an introducing firm and claimed an exemption which prohibits the receipt of customer funds and/or securities. The NASD found that the firm, acting through Winslow, failed to comply with their claimed

exemption in that the firm received checks made payable to the firm rather than to their clearing firm. The NASD also found that the firm, acting through Winslow, used the instrumentalities of interstate commerce to conduct a securities business while failing to maintain its minimum required net capital. The findings also stated that the firm failed, within 90 seconds of execution, to transmit transactions in OTC equity securities through ACT, and failed to designate through ACT these transactions as late. The findings also stated that the firm failed to report to ACT the correct price of the transactions on Nasdaq National Market® (NNM®) securities and failed to identify through ACT in a last sale report of transactions on NNM securities that such report was an aggregated transaction report. In addition, the NASD determined that the firm reported to ACT the incorrect capacity designation on transactions. Furthermore, the NASD found that the firm failed to show the correct execution time on order tickets and failed to have required order tickets. The NASD also determined that the firm failed to establish, maintain, and enforce written procedures reasonably designed to achieve compliance with applicable securities laws, regulations, and the rules of the NASD regarding trading reporting, time stamping of sales memoranda, and the receipt of customer checks. **(NASD Case #C11020008)**

### **Firms Fined**

**Baron Capital, Inc. (CRD #10538, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$10,000, and required to submit revised written supervisory procedures with respect to compliance with the

Order Audit Trail System<sup>SM</sup> (OATS<sup>SM</sup>) rules. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to transmit to OATS any order data for its orders for equity securities traded on The Nasdaq Stock Market.<sup>®</sup> The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws and regulations concerning OATS; specifically, that the system did not include written supervisory procedures providing for a statement of the steps to be taken to achieve compliance with the OATS reporting rule, a statement as to how often such steps should be taken, and a statement as to how enforcement of such written supervisory procedures should be documented at the firm. **(NASD Case #CMS020020)**

**Citistreet Equities LLC (CRD #7447, East Brunswick, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$12,500. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to submit filings required to be reported under NASD Conduct Rule 3070 with the NASD in a timely manner. The NASD also found that the firm failed to establish, maintain, and enforce procedures, including written supervisory procedures, reasonably designed to ensure compliance with NASD Conduct Rule 3070. **(NASD Case #C9B020012)**

**Continental Broker-Dealer Corp. (CRD #14048, Carle Place, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was fined \$25,000. Without admitting or denying the allegations, the firm consented to the entry of findings that it failed to establish and maintain supervisory procedures reasonably designed to ensure that orders placed in an IPO had been authorized by customers. The findings also stated that the firm made an exception to its usual practice of verifying 50 percent of all customer orders with respect to the IPO. **(NASD Case #CAF020005)**

**Dirks & Company, Inc. (CRD #42185, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$18,000, and required to revise its written supervisory procedures with respect to the firm quote rules. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, as a registered market maker in securities, it failed to execute orders presented at the firm's published bid or published offer in an amount up to its published quotation size, and upon presentment, failed to honor its published quotation. The findings also stated that it failed, within 90 seconds after execution, to transmit through ACT, last sale reports of transactions in Nasdaq National Market (NNM), Nasdaq SmallCap,<sup>SM</sup> and OTC Equity securities, and failed to designate through ACT such last sale reports as late; failed to designate as ".T" through ACT last sale reports of transactions in NNM and OTC Equity securities executed outside normal market hours; and failed, within 90 seconds after execution, to transmit through ACT last sale reports. Furthermore, the NASD

determined that the firm did not provide for supervision reasonably designed to achieve compliance with respect to firm quote rules. Specifically, the firm's supervisory system did not include written supervisory procedures providing for the identification of the person responsible at the firm to ensure compliance with the firm quote rules; a statement of the steps that such person should take to ensure compliance; a statement as to how often such person should take such steps; and a statement as to how enforcement of such written supervisory procedures should be documented at the firm. **(NASD Case #CMS020019)**

**FAM Distributors, Inc. (CRD #4100, Plainsboro, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$12,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it permitted an individual to act as a general securities representative prior to properly qualifying and/or registering in the appropriate capacity. The NASD also found that the firm permitted registered representatives to perform duties as registered persons while their registration status with the NASD was inactive due to their failure to timely complete the Regulatory Element of the NASD's Continuing Education Rule. In addition, the findings stated that the firm failed to enforce written supervisory procedures reasonably designed to achieve compliance in the areas of Continuing Education Regulatory Element and Registration. **(NASD Case #C9B020013)**

**Fifth Third Securities, Inc. (CRD #628, Cincinnati, Ohio)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was

fined \$15,000. Without admitting or denying the allegations, the firm consented to the described sanction and to the entry of findings that it permitted individuals to function in capacities requiring registration when their registrations had been deemed inactive for failure to complete the Regulatory Element Continuing Education requirement. **(NASD Case #C8B020005)**

**H & R Block Financial Advisors, Inc. (CRD #5979, Detroit, Michigan)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$50,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, as a required market maker in securities, an order was presented to the firm at the firm's published bid or published offer in an amount up to its published quotation size. The firm failed to execute the orders upon presentment and thereby failed to honor its published quotation. In addition, the NASD found that the firm, a market maker in securities, without making reasonable efforts to avoid a locked or crossed market by executing transactions with all market makers whose quotations would be locked or crossed, entered bid or ask quotations in The Nasdaq Stock Market, which caused a locked or crossed market condition to occur in each instance. Furthermore, the NASD found that the firm was a party to a locked or crossed market condition prior to the market opening and received a trade-or-move message in each instance through SelectNet<sup>®</sup> and, within 30 seconds of receiving such messages, failed to fill the incoming trade-or-move message for the full size of the message or move its bid down (offer up) by a quotation increment

that would have unlocked/uncrossed the market; and caused a locked/crossed market condition prior to the market opening by entering a bid (ask) quotation that locked/crossed another market maker's quotations without immediately thereafter sending through SelectNet to the market maker whose quote it locked or crossed a trade-or-move message that was at the receiving market maker's quoted price and whose aggregate size was at least 5,000 shares. **(NASD Case #CMS020035)**

**J. B. Hanauer & Co. (CRD #6958, Parsippany, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it permitted individuals to act as equity traders while failing to have them registered in such capacities. The NASD also found that the firm failed to report Fixed Income Pricing System<sup>SM</sup> (FIPS<sup>SM</sup>) eligible securities to FIPS as required. **(NASD Case #C9B020011)**

**Jefferies & Company, Inc. (CRD #2347, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, as a market maker in securities, the firm was a party to a locked or crossed market condition prior to the market opening and received a trade-or-move message in each instance through SelectNet,<sup>®</sup> and within 30 seconds of receiving such messages, failed to fill the incoming trade-or-move message

for the full size of the message or move its bid down (offer up) by a quotation increment that would have unlocked/uncrossed the market. **(NASD Case #CMS020023)**

**Pacific Growth Equities, Inc. (CRD #24835, San Francisco, California)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$15,000, and required to revise its written supervisory procedures with respect to applicable securities laws and regulations concerning firm quote compliance. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, as a registered market maker in securities, it failed to execute orders presented at the firm's published bid or published offer in an amount up to its published quotation size, and thereby failed to honor its published quotation. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws and regulations concerning firm quote compliance. Specifically, the firm's supervisory system did not include written supervisory procedures providing for a statement of the steps that the persons responsible at the firm should take to ensure compliance; a statement of the steps that such person should take to ensure compliance with the NASD and Securities and Exchange Commission (SEC) firm quote rules; and a statement as to how enforcement of such written supervisory procedures should be documented at the firm. **(NASD Case #CMS020034)**

**Peters Securities Co., LP (CRD #15970, Chicago, Illinois)** submitted a Letter of Acceptance,

Waiver, and Consent in which the firm was censured, fined \$172,000, required to pay \$1,045.94, plus interest, in restitution to investors, and ordered to revise its written supervisory procedures. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to use reasonable diligence to ascertain the best prevailing inter-dealer market, and failed to buy or sell in such market so that the resultant price to its customers was as favorable as possible under prevailing market conditions; executed transactions and failed to record the time of execution on the memoranda reflecting these transactions; failed to maintain memoranda memorializing securities transactions; failed to reflect correctly the terms and conditions of limit orders received by the firm on the memoranda memorializing such orders; failed to register as a market maker and publicly disseminate its best bids, offers, and quotation sizes in exchange listed securities within 10 business days after the end of the quarter when aggregate trading volume in these securities exceeded one percent; and failed to display immediately customer limit orders in covered securities in its public quotation when each such order was at a price that would have improved the firm's bid or offer in each such security, or when each such order was priced equal to the firm's bid or offer and the national best bid or offer for each such security, and the size of the order represented more than a de minimis change in relation to the size associated with the firm's bid or offer in each such security.

The findings also stated that the firm failed to execute orders fully and promptly; executed short sale orders in certain securities and failed to maintain a written record

of the affirmative determination made for such orders; executed four short sale transactions in certain securities, all of which were NNM securities at or below the current inside bid when the current inside bid was below the preceding inside bid in the security; executed seven transactions in listed securities for its own account while holding unexecuted customer limit orders to buy or sell the same securities at equal or better prices; and executed short sale transactions and failed to report each of these transactions to ACT with a short sale modifier. In addition, the NASD determined that the firm failed to report to ACT the correct symbol indicating whether the transactions reported to ACT were a buy, sell short, sell short exempt or cross for transactions in eligible securities and failed to report the correct symbol indicating whether the firm executed transactions in eligible securities in a principal or agency capacity; failed to preserve for a period of not less than three years, the first two in an accessible place, memorandum of each order received reflecting open limit orders and cancellations of orders; failed to indicate on the memoranda reflecting the sale of certain listed securities whether such orders were long or short sales; failed, within 90 seconds after execution, to transmit through ACT last sale reports of transactions in ACT-eligible securities which constitutes a pattern or practice of late reporting without exceptional circumstances; and failed, within 90 seconds after execution, to transmit through ACT last sale reports of transactions in NNM and Nasdaq securities, a Nasdaq SmallCap security, and eligible securities, and failed to designate through ACT such last sale reports as late. The NASD also determined that the firm incorrectly designated as “.SLD” through ACT last sale

reports of transactions in NNM securities reported to ACT within 90 seconds of execution, incorrectly designated as “.SLD” through ACT last sale reports of transactions in eligible securities reported to ACT within 90 seconds of execution, and incorrectly designated as “.T” through ACT two last sale reports of transactions in NNM securities executed during normal market hours and failed to designate through ACT such last sale reports as late; and entered priced broadcast orders into SelectNet that were each priced better than the firm’s public quote reflecting each such order in the firm’s public quote as required by SEC Rule 11a1-1(c)(5).

Furthermore, the NASD found that the firm’s supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws and regulations concerning: ACT compliance, one percent rule, Small Order Execution System<sup>SM</sup> (SOES<sup>SM</sup>), trade reporting, locked and crossed markets, 21(a) report issues, best execution, books and records, limit order protection and display, short sales, short sale compliance, OATS compliance, and transaction reporting. Specifically, the firm’s supervisory system did not include written supervisory procedures providing for the identification of the person responsible at the firm to ensure compliance with applicable rules; a statement of the steps that such person should take to ensure compliance therewith; a statement as to how often such person should take such steps; and a statement as to how enforcement of such written supervisory procedures should be documented at the firm. **(NASD Case #CMS020030)**

**Raymond James & Associates, Inc. (CRD #705, St. Petersburg, Florida)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that the firm, a market maker in securities, without making reasonable efforts to avoid a locked or crossed market by executing transactions with all market makers whose quotations would be locked or crossed, entered bid or ask quotations in The Nasdaq Stock Market which caused a locked or crossed market condition to occur in each instance. **(NASD Case #CMS020021)**

**Stifel, Nicolaus & Company, Inc. (CRD #793, St. Louis, Missouri)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$15,000, and required to revise its written supervisory procedures with respect to applicable securities laws and regulations concerning firm quote compliance. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that an order was presented to the firm at the firm’s published bid or published offer in an amount up to its published quotation size. The firm failed to execute the orders upon presentment and thereby, failed to honor its published quotation. The findings also stated that the firm’s supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws and regulations concerning firm quote compliance. Specifically, the firm’s supervisory system did not include written supervisory procedures providing for the identification of the person responsible at the firm

to ensure compliance with the applicable rules; a statement of the steps that such person should take to ensure compliance; a statement as to how often such person should take such steps; and a statement as to how enforcement of such written supervisory procedures should be documented at the firm. **(NASD Case #CMS020031)**

**Terra Nova Trading, LLC (CRD #37761, Chicago, Illinois)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$12,500, and required to revise its written supervisory procedures with respect to compliance with OATS reporting. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to transmit to OATS in a timely manner any order data for its orders for equity securities traded on The Nasdaq Stock Market, and transmitted reports to OATS containing inaccurate data as to the limit order display indicator and the routing method code with respect to orders for equity securities traded on The Nasdaq Stock Market. The NASD found that the firm transmitted to OATS reports containing inaccurate data as to the firm order received date and firm order received timestamp with respect to orders for equity securities traded on The Nasdaq Stock Market. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws and regulations concerning OATS reporting, in that it did not include written supervisory procedures providing for the identification of the person responsible at the firm to ensure compliance with

applicable rules; a statement of the steps that such person should take to ensure compliance; a statement as to how often such person should take such steps; and a statement as to how enforcement of such written supervisory procedures should be documented at the firm. **(NASD Case #CMS020029)**

### **Individuals Barred Or Suspended**

**Marc Craig Adereth (CRD #2113263, Registered Representative, Cliffside Park, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for 60 days. Without admitting or denying the allegations, Adereth consented to the described sanction and to the entry of findings that, without the prior knowledge, authorization, or consent from a public customer, he executed, or caused to be executed, unauthorized transactions in the account of a public customer.

Adereth's suspension began March 18, 2002, and will conclude at the close of business May 16, 2002. **(NASD Case #C02020006)**

**Cameron Michael Benton (CRD #2709062, Registered Representative, Poncha Spring, Colorado)** was fined \$10,000 and suspended from association with any NASD member for 30 business days for engaging in private securities transactions and barred from association with any NASD member in any capacity for failing to respond. The fine must be paid before Benton reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. The sanctions were based on findings that

Benton engaged in private securities transactions without providing prior written notice to his member firm. Benton also failed to respond to NASD requests for information.

Benton's bar become effective February 14, 2002. **(NASD Case #C3A010029)**

**William Allen Blackwell, III (CRD #4061567, Associated Person, Los Angeles, California)** was fined \$5,000 and barred from association with any NASD member in any capacity. The fine must be paid before Blackwell reassociates with any NASD member firm. The sanctions were based on findings that Blackwell provided false responses on his Uniform Application for Securities Industry Registration or Transfer (Form U-4). Blackwell also failed to respond to NASD requests for information. **(NASD Case #C02010043)**

**Bennie Eugene Braswell, Jr. (CRD #2916727, Registered Representative, Hephzibah, Georgia)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$2,500 and suspended from association with any NASD member in any capacity for five business days. The fine must be paid before Braswell reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Braswell consented to the described sanctions and to the entry of findings that he guaranteed a public customer against loss in her securities account.

Braswell's suspension began March 18, 2002, and concluded at the close of business March 22, 2002. **(NASD Case #C07020009)**

**John Montgomery Buckley (CRD #2351891, Registered Representative, Atlanta, Georgia)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Buckley consented to the described sanction and to the entry of findings that he effected unauthorized trades in the account of a public customer. **(NASD Case #C07020005)**

**Joseph Ryan Carrico (CRD #3050586, Registered Representative, Indianapolis, Indiana)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$2,500, ordered to pay \$1,443.57, plus interest, in restitution to a member firm, and suspended from association with any NASD member in any capacity for two years. The fine and restitution must be paid before Carrico reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Carrico consented to the described sanctions and to the entry of findings that he placed trades appearing on his member firm's daily uncomparated trades report in his personal account rather than in the firm's error account. The NASD also found that, after the trade was placed in his account, he then sold the underlying equity at a profit.

Carrico's suspension began April 1, 2002, and will conclude at the close of business March 31, 2004. **(NASD Case #C8A020011)**

**James John Cavaliere, Jr. (CRD #1528967, Registered Principal, Staten Island, New York)** submitted an Offer of Settlement in which he was fined \$5,000, suspended from association with any NASD member in any principal capacity for six months, and required to requalify as a general securities principal prior to his reassociation with any NASD member in any principal capacity. The fine must be paid before Cavaliere reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Cavaliere consented to the described sanctions and to the entry of findings that he failed to establish, maintain, and enforce effective supervisory systems pertaining to his member firm's underwriting and retail brokerage activities that were reasonably designed to achieve compliance with federal securities laws, regulations, and NASD Rules. The findings also stated that Cavaliere knew, or should have known, of numerous "red flags" indicating that sales practice violations were occurring or had occurred at his member firm. The NASD found that Cavaliere knew, or should have known, of his firm's receipt of numerous written customer complaints against associated persons with the firm alleging sales practice abuses in connection with the purchase or sale of securities. In addition, the findings stated that Cavaliere failed to take sufficient supervisory steps in response to the "red flags" generated by the complaints.

Cavaliere's suspension began March 18, 2002, and will conclude at the close of business September 17, 2002. **(NASD Case #C10010004)**

**Randolph Jerome Corbitt (CRD #4080159, Registered Representative, Houston, Texas)** submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Corbitt consented to the described sanction and to the entry of findings that he willfully failed to disclose a material fact on his Form U-4. The findings also stated that Corbitt failed to respond to NASD requests for information. **(NASD Case #C06010046)**

**Henry Howard DeCora (CRD #1193275, Registered Representative, Woodbury, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 60 days. Without admitting or denying the allegations, DeCora consented to the described sanctions and to the entry of findings that he participated in a securities transaction away from his member firm and failed to provide written notification to his firm.

DeCora's suspension began March 18, 2002, and will conclude at the close of business May 6, 2002. **(NASD Case #C10020011)**

**Jeffrey Charles Dunham (CRD #2087534, Registered Representative, Indianapolis, Indiana)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Dunham consented to the described sanction and to the entry of findings that he participated in private securities transactions without prior written



notice to, or approval from, his member firm. **(NASD Case #C8A020008)**

**Robert Allen Eastham, II (CRD #2019403, Registered Representative, Beaverton, Oregon)** submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for three months. Without admitting or denying the allegations, Eastham consented to the described sanction and to the entry of findings that he recommended to a public customer that she sell variable annuity policies and apply the proceeds to purchase fixed annuity policies without having reasonable grounds for believing that his recommendation was suitable for the customer upon the basis of facts disclosed by the customer as to her other security holdings, financial situation, and needs.

Eastham's suspension began March 18, 2002, and will conclude at the close of business June 17, 2002. **(NASD Case #C3B020003)**

**Verna Lynn Eller (CRD #2085566, Registered Representative, Chillicothe, Missouri)** submitted an Offer of Settlement in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Eller consented to the described sanction and to the entry of findings that, without the knowledge or consent of public customers, she forged the endorsement signatures of the customers on checks payable to the customers totaling \$40,000. The findings also stated that Eller forged signatures on applications to open accounts in her maiden name and in the names of public customer for accounts to be controlled by Eller. The NASD

found that Eller caused checks totaling \$40,000 to be issued from the accounts of public customers and affixed the customers' signatures on the checks and on account applications without the customers' knowledge or consent, and deposited the funds into a money fund joint account she controlled and subsequently transferred the funds to a separate account in her name. The findings also stated that Eller received \$340 from a public customer with instructions from the customer to purchase shares of stock, presented the customer a handwritten document as a putative receipt on firm letterhead, failed to open the account for the customer or purchase stock as intended, and instead retained and converted cash for her own use and benefit. In addition, Eller failed to respond to NASD requests for information. **(NASD Case #C04010043)**

**Guy Anthony Fritts (CRD #1260129, Registered Representative, Huntington, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 25 business days. The fine must be paid before Fritts reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Fritts consented to the described sanctions and to the entry of findings that, while registered with the NASD through a member firm, he settled a public customer's complaint by paying the customer \$4,750 without informing and obtaining authorization from his firm.

Fritts' suspension began March 18, 2002, and will conclude at the

close of business April 22, 2002. **(NASD Case #C10020023)**

**Edward John Fritz (CRD #1932151, Registered Representative, Waterloo, Iowa)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$2,500 and suspended from association with any NASD member in any capacity for 10 business days. The fine must be paid before Fritz reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Fritz consented to the described sanctions and to the entry of findings that he engaged in outside business activities and failed to properly disclose this activity to his member firm.

Fritz's suspension began April 1, 2002, and concluded at the close of business April 12, 2002, **(NASD Case #C04020009)**

**Frank Peter Fucilo (CRD #1300170, Registered Representative, Kingston, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Fucilo consented to the described sanction and to the entry of findings that he engaged in private securities transactions, in that he recommended and sold promissory notes to public customers, without prior written notice to, or approval from, his member firm. **(NASD Case #C11020009)**

**Bobby Joe Garrison, Jr. (CRD #1449625, Registered Representative, Studio City, California)** was barred from association with any NASD member in any capacity. The sanction was based on findings

that Garrison made a material misrepresentation to a customer in connection with the purchase and sale of securities. **(NASD Case #C02010045)**

**John Gentile (CRD #2298008, Registered Representative, Paulsboro, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000, suspended from association with any NASD member in any capacity for 18 months, and ordered to disgorge commissions of \$41,600 in partial restitution to public customers. The fine and restitution amounts must be paid before Gentile reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Gentile consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without prior written notice to, or approval from, his member firm.

Gentile's suspension began March 18, 2002, and will conclude at the close of business September 17, 2003. **(NASD Case #C9A020009)**

**Richard Arthur Hennig (CRD #243151, Registered Representative, Granite Bay, California)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$7,500, suspended from association with any NASD member in any capacity for 90 days, and barred from association with any NASD member as an equity trader, or in any similar capacity requiring the successful completion of the Series 55 equity trader examination. Without admitting or denying the allegations Hennig consented to the described sanctions and to the entry of findings that, while

employed as a securities trader at a member firm and while acting as a market maker in securities, he effected principal transactions with retail customer accounts that resulted in excessive and unfair markups to customers of 37.56 and 42.86 percent based on the firm's contemporaneous cost of purchase.

Hennig's suspension began February 19, 2002, and will conclude May 19, 2002. **(NASD Case #CMS020027)**

**Roy Monroe Henry (CRD #243400, Registered Principal, Chesterfield, Missouri)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for 90 days. In addition, Henry was fined \$5,000, jointly and severally, with another respondent. The fines must be paid before Henry reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Henry consented to the described sanctions and to the entry of findings that, as an inducement for customers to purchase an interest in a limited partnership, Henry executed a document that guaranteed the customers against loss. The findings also stated that Henry shared in losses sustained by customers and made misrepresentations or material omissions of fact to customers. The NASD found that a member firm, acting through Henry, failed to establish and maintain an adequate supervisory control system to ensure all transactions by the principals of its Offices of Supervisory Jurisdiction were being properly received by another supervisory principal.

Henry's suspension began March 4, 2002, and will conclude June 1, 2002. **(NASD Case #C04020008)**

**Ira Mark Hermann (CRD #1485932, Registered Representative, Laguna Niguel, California)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 30 days. Without admitting or denying the allegations, Hermann consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without prior written notice to his member firms.

Hermann's suspension began March 18, 2002, and will conclude at the close of business April 16, 2002. **(NASD Case #C02020004)**

**Katarzyna Joanna Jeglinska (CRD #2475845, Registered Representative, Brooklyn, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Jeglinska consented to the described sanction and to the entry of findings that she converted cash in excess of \$50,000 from the account of public customers maintained at her member firm for her own use and benefit without the customers' prior knowledge, authorization, or consent. **(NASD Case #C10020022)**

**Kevin Rodney Kasselder (CRD #1807137, Registered Representative, Kansas City, Missouri)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000, suspended from association with any NASD member in any capacity for two years, and required to disgorge \$38,536.68, plus interest,

in commissions to investors. The disgorgement amounts must be paid before Kasselder reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Kasselder consented to the described sanctions and to the entry of findings that he referred customers to a registered representative for the purpose of the customers investing in private placement notes without providing prior written notice to, and receiving approval from, his member firm.

Kasselder's suspension began March 4, 2002, and will conclude at the close of business March 3, 2004. **(NASD Case #C04020004)**

**Timothy Michael Kelly (CRD #1105037, Registered Representative, North Providence, Rhode Island)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity and ordered to pay \$75,000, plus interest, in restitution to public customers. The restitution must be paid before Kelly reassociates with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Kelly consented to the described sanctions and to the entry of findings that he engaged in private securities transactions, for compensation, without prior written notice to, or approval from, his member firm. **(NASD Case #C11020012)**

**Peter Michael Landay (CRD #1209354, Registered Representative, Los Angeles, California)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$146,800,

which will be reduced by amounts that he demonstrates he has paid to the trustee in the bankruptcy for a company, and suspended from association with any NASD member in any capacity for one year. The fine must be paid before Landay reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Landay consented to the described sanctions and to the entry of findings that he participated in private securities transactions, for compensation, without prior written notice to, or approval from, his member firm.

Landay's suspension began April 1, 2002, and will conclude at the close of business March 31, 2003. **(NASD Case #C3A020012)**

**Allen Holman Lenzini (CRD #2779230, Registered Representative, Macon, Missouri)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Lenzini consented to the described sanction and to the entry of finding that he deposited a personal money order from a public customer into a checking account in his name over which he had control. The findings also stated that Lenzini willfully failed to disclose a material fact on his Form U-4 and failed to respond completely to NASD requests for information. **(NASD Case #C04020007)**

**Keith Gay Lewis (CRD #1568459, Registered Principal, Baton Rouge, Louisiana)** submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with

any NASD member in any capacity for four months. In light of the financial status of Lewis, no fine has been imposed. Without admitting or denying the allegations, Lewis consented to the described sanction and to the entry of findings that he participated in private securities transactions without providing prior written notice to his member firm.

Lewis' suspension began March 18, 2002, and will conclude at the close of business July 17, 2002. **(NASD Case #C05020005)**

**Ben Jeffrey Lichtenberg (CRD #1367642, Registered Principal, Deerfield Beach, Florida)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$25,000 and suspended from association with any NASD member in any principal or supervisory capacity for two years. Without admitting or denying the allegations, Lichtenberg consented to the described sanctions and to the entry of findings that he engaged in activities requiring registration as a general securities principal for his member firm while he was not registered in that capacity or in any other principal capacity. The findings also stated that a member firm, acting through Lichtenberg, effected sales in contravention of the Free-Riding and Withholding Interpretation, including sales to an account owned by Lichtenberg and sales to restricted accounts for which he was the registered representative. In addition, the NASD found that the firm, acting through Lichtenberg, retained securities in one or more firm accounts. The NASD also found that Lichtenberg submitted materially false or inaccurate Free-Riding and Withholding Questionnaires to the NASD. Moreover, the findings stated that the firm, acting through Lichtenberg, failed to comply with

SEC Rule 15c2-4 in connection with a contingent offering of units in which the firm acted as sole placement agent and failed to transmit funds received from investors to whom the firm sold units to a bank escrow account or to deposit funds received from investors into a separate bank account as agent or trustee.

Lichtenberg's suspension began March 18, 2002, and will conclude at the close of business March 17, 2004. **(NASD Case #C9A020005)**

**Harry Walter Linindoll, III (CRD #1227307, Registered Representative, East Greenbush, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$18,000, of which \$13,000 represents disgorgement of commissions, and suspended from association with any NASD member in any capacity for two months. Without admitting or denying the allegations, Linindoll consented to the described sanctions and to the entry of findings that he participated in private securities transactions, for compensation, without prior written notice to, or approval from, his member firm.

Linindoll's suspension began April 1, 2002, and will conclude at the close of business May 31, 2002. **(NASD Case #C11020010)**

**Christopher McCafferty (CRD #4194611, Registered Representative, Hollywood, Florida)** submitted an Offer of Settlement in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for three months. The fine must be paid before McCafferty reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting

or denying the allegations, McCafferty consented to the described sanctions and to the entry of findings that he completed a Form U-4 and failed to disclose material information.

McCafferty's suspension began March 18, 2002, and will conclude at the close of business June 17, 2002. **(NASD Case #C07010104)**

**Basilio Mercado, Jr. (CRD #2864911, Associated Person, Miami Beach, Florida)** was fined \$5,000 and suspended from association with any NASD member in any capacity for six months for failure to disclose information on a Form U-4 and barred from association with any NASD member in any capacity for failure to respond. The fine must be paid before Mercado's reentry into the securities industry. The sanctions are based on findings that Mercado willfully failed to disclose material information on his Form U-4 and failed to respond to NASD requests for information.

Mercado's bar became effective March 1, 2002. **(NASD Case #C07010070)**

**Louis Robert Mercaldo (CRD #2304338, Registered Representative, Magnolia, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for two months. The fine must be paid before Mercaldo reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Mercaldo consented to the described sanctions and to the entry of findings that he was involved in offering securities to public customers for which he received compensation and failed

to provide his member firm prior written notice describing the transactions, his proposed role therein, and stating whether he had received, or might receive, selling compensation.

Mercaldo's suspension began March 18, 2002, and will conclude at the close of business May 17, 2002. **(NASD Case #C9A020010)**

**Matthew Alan Mikesch (CRD #2356741, Registered Representative, St. Joseph, Missouri)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity and required to disgorge \$18,056.53, plus interest, to public customers. Satisfactory proof of payment of disgorgement shall be a prerequisite before reassociating with any NASD member or prior to any request for relief from any statutory disqualification. Without admitting or denying the allegations, Mikesch consented to the described sanctions and to the entry of findings that he engaged in the sale of private securities transactions in connection with the sale or renewal of notes to customers without providing prior written notice to, and receiving approval from, his member firms. **(NASD Case #C04020005)**

**Valerie Jean Miles (CRD #2457012, Registered Representative, Furlong, Pennsylvania)** submitted an Offer of Settlement in which she was fined \$30,000 and suspended from association with any NASD member in any capacity for two months. Without admitting or denying the allegations, Miles consented to the described sanctions and to the entry of findings that she failed to maintain a record of gifts given to a client, submitted a falsified employee

travel and entertainment report to her member firm, and wrongfully diverted and misused funds from her firm to pay for a personal trip. The findings also stated that Miles failed to report gifts she gave to her client and provided false testimony during an NASD on-the-record interview.

Miles' suspension began March 18, 2002, and will conclude at the close of business May 17, 2002. **(NASD Case #CAF010019)**

**Jason Everett Morey (CRD #2791128, Registered Representative, Trumbull, Connecticut)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity and ordered to pay \$132,349.86, plus interest, in restitution to public customers. Proof of payment of the restitution amounts, plus interest, must be provided before Morey reassociates with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Morey consented to the described sanctions and to the entry of findings that he effected transactions in the accounts of public customers without their prior knowledge, authorization, or consent. **(NASD Case #C10020020)**

**Raymond Lee Morton (CRD #1611046, Registered Principal, Everett, Washington)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any principal or supervisory capacity for 15 business days. Without admitting or denying the allegations, Morton consented to the described sanc-

tions and to the entry of findings that he failed to supervise the activities of a registered representative who made unsuitable recommendations to public customers and effected transactions in a manner that was reasonably designed to achieve compliance with applicable securities laws and regulations.

Morton's suspension began March 18, 2002, and concluded at the close of business April 5, 2002. **(NASD Case #C3B020005)**

**Arthur Michael Pagnotta (CRD #2431827, Registered Principal, Redmond, Washington)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 15 business days. Without admitting or denying the allegations, Pagnotta consented to the described sanctions and to the entry of findings that he recommended the purchase of high-yield corporate bonds to public customers without reasonable grounds for believing the recommendations were suitable for the customers upon the basis of facts disclosed by the customers as to their other security holdings, financial situation, and needs.

Pagnotta's suspension will begin April 15, 2002, and will conclude at the close of business May 3, 2002. **(NASD Case #C3B020004)**

**Christopher Perry (CRD #3243580, Associated Person, New York, New York)** was barred from association with any NASD member in any capacity. The sanction is based on findings that Perry willfully failed to disclose material information on Forms U-4 submitted to the NASD through several firms. **(NASD Case #C10010094)**

**Edward Scott Peterson (CRD #2260436, Registered Representative, South Amboy, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$2,500, suspended from association with any NASD member in a registered capacity for 12 months, and required to requalify as a general securities representative if he attempts to associate with any NASD member in a registered capacity following his suspension. Without admitting or denying the allegations, Peterson consented to the described sanctions and to the entry of findings that he failed to file an amendment to his Form U-4 to disclose material information.

Peterson's suspension began March 18, 2002, and will conclude at the close of business March 17, 2003. **(NASD Case #C10020012)**

**John Edward Prokop (CRD #1472658, Registered Representative, Youngstown, Ohio)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Prokop consented to the described sanction and to the entry of findings that he engaged in outside business activities, for compensation, and failed to provide his member firm with prompt written notice of his activities. **(NASD Case #C8B020004)**

**Jack Steven Randazzo (CRD #2606716, Registered Principal, Syosset, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for three months. In light of the financial status of Randazzo, no monetary sanctions have been

imposed. Without admitting or denying the allegations, Randazzo consented to the described sanction and to the entry of findings that a member firm, acting through Randazzo, calculated markups on customer retail purchases of warrants based upon the inside ask price when the proper basis was the firm's contemporaneous cost. The findings also stated that the firm, acting through Randazzo, executed trades in warrants in which excessive markups were charged that exceeded 10 percent of the firm's contemporaneous cost and were, therefore, fraudulent. In addition, the NASD found that Randazzo failed to monitor the firm's market presence in the warrants and failed to take into consideration anything other than the inside quotes in determining the propriety of the firm's markups, nor did he consider using the firm's contemporaneous cost as a basis for the markups. Moreover, Randazzo failed to monitor the firm's holdings and activity for domination and control and should have ensured that the markups the firm charged were not excessive.

Randazzo's suspension began March 18, 2002, and will conclude at the close of business June 17, 2002. **(NASD Case #CAF020006)**

**Yi Feng Reid (CRD #4073295, Registered Representative, Closter, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Reid consented to the described sanction and to the entry of findings that she applied for a credit card in the name of an insurance customer, using personal information the customer had provided on a life insurance application processed by Reid, without the customer's consent or

authority. **(NASD Case #C9B020017)**

**James Anthony Sammartano (CRD #2687661, Registered Representative, Brooklyn, New York)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Sammartano willfully failed to amend, and failed to disclose, a material fact on his Form U-4. Sammartano also failed to respond to NASD requests to appear for an on-the-record interview. **(NASD Case #C9B000040)**

**William Raymond Schantz, III (CRD #1641847, Registered Representative, Cherry Hill, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for three months. The fine must be paid before Schantz reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Schantz consented to the described sanctions and to the entry of findings that he was involved in offering securities to public customers for which he received compensation, and failed to provide his member firm prior written notice describing the transactions, his proposed role therein, and stating whether he had received, or might receive, selling compensation.

Schantz' suspension began March 4, 2002, and will conclude at the close of business June 3, 2002. **(NASD Case #C9A020006)**

**Gerard Vincent Sherlock, Sr. (CRD #2629144, Registered Representative, Cherry Hill, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent

in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for three months. The fine must be paid before Sherlock reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Sherlock consented to the described sanctions and to the entry of findings that he was involved in offering securities to public customers for which he received compensation and failed to provide his member firm prior written notice describing the transactions, his proposed role therein, and stating whether he had received, or might receive, selling compensation.

Sherlock's suspension began March 18, 2002, and will conclude at the close of business June 17, 2002. **(NASD Case #C9A020008)**

**William Levio Vecchione (CRD #2837113, Registered Principal, Brooklyn, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Vecchione consented to the described sanction and to the entry of findings that he failed to supervise a registered representative under heightened supervision as a result of a prior customer complaint who made misrepresentations of material facts or failed to state material facts in connection with sales to public customers while under heightened supervision. The findings also stated that Vecchione failed to take appropriate steps to implement the terms of the heightened supervision, including monitoring the sales practices of the representative and reviewing and approving certain transactions. In

addition, the NASD found that Vecchione made a baseless price and performance prediction to a public customer in connection with the sale of a security. The NASD also found that Vecchione failed to respond to an NASD request to appear and give testimony. **(NASD Case #C10020019)**

**Robert Joseph Waltos, Jr. (CRD #1627085, Registered Representative, Newport Beach, California)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the allegations, Waltos consented to the described sanctions and to the entry of findings that he engaged in a private securities transaction without prior written notice to his member firm. The findings also stated that Waltos had knowledge that a registered person under his supervision and control was engaged in private securities transactions and, despite this knowledge, failed to take timely or adequate supervisory action, under the attendant circumstances known to him, that were reasonably designed to either ensure that the individual complied with the requirements of NASD Conduct Rule 3040 or ensure that the individual cease to be connected with the unsupervised sale of unapproved products away from his member firms.

Waltos' suspension will begin April 15, 2002, and will conclude at the close of business April 26, 2002. **(NASD Case #C02020005)**

**Richard John Warren (CRD #1813475, Registered Representative, East Islip, New York)** submitted an Offer of Settlement in which he was suspended from association with

any NASD member in any capacity for nine months. In light of the financial status of Warren, no monetary sanction has been imposed. Without admitting or denying the allegations, Warren consented to the described sanction and to the entry of findings that he engaged in private securities transactions without providing prior written notice to, or receiving written permission from, his member firm. The findings also stated that Warren engaged in outside business activities without providing prior written notice to his member firm.

Warren's suspension began March 18, 2002, and will conclude at the close of business December 17, 2002. **(NASD Case #C10010115)**

#### **Individuals Fined**

**Matthew James Gardiner (CRD #1777289, Registered Principal, Staten Island, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was censured and fined \$11,250. Without admitting or denying the allegations, Gardiner consented to the described sanctions and to the entry of findings that he inaccurately reported to ACT that his member firm had acted in a principal capacity when it had actually acted as an agent in transactions and failed to report short sale transactions to ACT with a short sale modifier. The NASD found that Gardiner failed to show the time, or correct time of execution on brokerage order memoranda, and failed to show the time, or correct time of execution, or entry, on brokerage order memoranda. The findings also stated that Gardiner executed short sale orders in securities and failed to make an affirmative determination prior to executing the transactions and failed to indicate whether a transaction

was a market or limit order on brokerage order memoranda. **(NASD Case #C10020016)**

**Gary David Winter (CRD #1533705, Registered Principal, Fresno, California)** submitted a Letter of Acceptance, Waiver, and Consent in which he was censured and fined \$10,000. Without admitting or denying the allegations, Winter consented to the described sanctions and to the entry of findings that he submitted to his member firm and filed with the NASD a Form U-4 relating to the proposed registration of an individual that failed to disclose material facts. **(NASD Case #C01020001)**

#### **Complaints Filed**

The following complaints were issued by the NASD. Issuance of a disciplinary complaint represents the initiation of a formal proceeding by the NASD in which findings as to the allegations in the complaint have not been made, and does not represent a decision as to any of the allegations contained in the complaint. Because these complaints are unadjudicated, you may wish to contact the respondents before drawing any conclusions regarding the allegations in the complaint.

**Arthur Kenny Bryant (CRD #1827620, Registered Representative, Edmonds, Washington)** was named as a respondent in an NASD complaint alleging that he obtained a \$4,000 check drawn on the account of a public customer, altered the check to show himself as the payee, cashed the check, and deposited \$3,900 in his personal credit union savings account. The complaint also alleges that Bryant subsequently withdrew the funds from the account, thereby converting \$4,000 to his own use and benefit

without the customer's prior knowledge, authorization, or consent. **(NASD Case #C3B020002)**

**Fanglun Michael Chai (CRD #3093902, Registered Representative, Bronx, New York)** was named as a respondent in an NASD complaint alleging that he exercised discretion in the account of a public customer without the customer's prior written authorization or prior written acceptance of the account as discretionary by his member firm. The complaint also alleges that Chai recommended and executed transactions in the account of a public customer without reasonable grounds for believing that the level of activity represented by such transactions was suitable for the customer on the basis of her financial situation, investment objectives, and needs. **(NASD Case #C10020010)**

**D.L. Cromwell Investments, Inc. (CRD #37730, Boca Raton, Florida), David Stewart Davidson (CRD #1212799, Registered Principal, Boca Raton, Florida), Lloyd Sylvester Martin Beirne (CRD #1982417, Registered Principal, Boca Raton, Florida), Eric Scott Thomes (CRD #2233456, Registered Principal, Boca Raton, Florida), and Matthew Greenwald (CRD #229262, Registered Principal, Boca Raton, Florida)** were named as respondents in an NASD complaint alleging that the firm, Beirne, Davidson, and Thomes, directly or indirectly employed devices, schemes, or artifices to defraud and/or engaged in acts, practices, or courses of business that operated as a fraud or deceit upon public investors in connection with the purchase and sale of warrants. The firm, acting through Beirne, Davidson, and Thomes,

allegedly engaged in a series of activities designed to arbitrarily and artificially increase the price of the warrants, and Thomes set the firm's quotes and executed the firm's trades in the warrants while knowing that his role was part of an overall activity that was improper. The complaint also alleges that Beirne and Davidson intentionally or recklessly caused the firm to act as a market maker in, and enter bids for, warrants and stock on the OTC Bulletin Board (OTCBB) when they recklessly disregarded the fact that the firm was engaged in a distribution of the units and stocks. The complaint alleges that Beirne and Davidson caused the firm to bid for and reacquire warrants and shares of stock from public customers for the firm's proprietary account and directed the firm's sales force to solicit retail customers to purchase stock while the distribution was still in progress, and that Thomes rendered substantial assistance by setting the firm's quotes and executing the firm's trades in the stocks while knowing that his role was part of an overall activity that was improper. In addition, the complaint alleges that Beirne and Davidson failed to respond to NASD requests for documents and to appear for on-the-record interviews. Furthermore, the complaint alleges that the firm and Greenwald failed to adequately set forth written supervisory procedures and systems reasonably designed to achieve compliance with federal securities laws and NASD rules relating to investment banking and trading. **(NASD Case #CAF020007)**

**Carla Joy Halverson (CRD #859074, Registered Representative, Littleton, Colorado)** was named as a respondent in an NASD complaint alleging that she engaged in unauthorized trading in that she

accepted mini tender offers for her customers without their prior authorization. **(NASD Case #C3A020007)**

**Investors Advocate, LLC (CRD #45801, Houston, Texas) and Jason Conrad Watkins (CRD #2242396, Associated Person, Flint, Michigan)** were named as respondents in an NASD complaint alleging that the firm, acting through Watkins, provided or caused to be provided, false and misleading information and documentation to the NASD during a financial and operational exam. The NASD complaint also alleges that the firm, acting through Watkins, mishandled and misused customer funds and the firm failed to comply with SEC Rules, in that it used the mails or other means or instrumentalities of interstate commerce to effect transactions in securities when it failed to maintain the minimum required net capital. Furthermore, the complaint alleges that the firm failed to maintain complete, current, and accurate books and records as required by SEC Rules in that it prepared inaccurate trial balances and net capital computations, filed false and inaccurate quarterly FOCUS Reports that materially overstated the firm's net capital, and failed to file an audited annual financial statement. In addition, the complaint alleges that the firm failed to adequately and completely respond to NASD requests for information and documents. **(NASD Case #C8A020007)**

**John Allen Jones, IV (CRD #2351720, Registered Representative, Montgomery, Alabama)** was named as a respondent in an NASD complaint alleging that he recommended purchase and sale transactions in various securities for public customers without having



reasonable grounds for believing that they were suitable for customers in view of the frequency and nature of the recommended transactions and the customer's financial situation, objectives, circumstances and needs. **(NASD Case #C05020006)**

**Daniel Steven Kippert (CRD #2327018, Registered Representative, Ogden, Utah)** was named as a respondent in an NASD complaint alleging that he instructed a sales assistant to transfer \$1,700 from a public customer's account maintained at his member firm to his personal bank account without the prior knowledge, authorization, or consent of the customer. **(NASD Case #C3A020011)**

**Victor Kozirovsky (CRD #2841043, Registered Representative, Woodmere, New York) and Reynolds Michael Verdiner (CRD #2858516, Registered Representative, Brooklyn, New York)** were named as respondents in an NASD complaint alleging that they opened accounts and made unauthorized purchases of stock during an IPO for persons who had not agreed to purchase the stock or even to open accounts with their member firm. The complaint also alleges that Kozirovsky opened an account and made an unauthorized purchase of stock for another individual. **(NASD Case #CAF020004)**

**Phung M. Le (CRD #3274440, Registered Representative, Springfield, Massachusetts)** was named as a respondent in an NASD complaint alleging that he forged public customers' signatures on traditional life insurance death benefit checks and deposited the checks into a bank account for his own use and benefit. The complaint also alleges

that Le failed to respond to NASD requests for information. **(NASD Case #C11020011)**

**Michael Robert Marcus (CRD #2291751, Registered Principal, Brooklyn, New York) and Louis Michael Montaino (CRD #2570300, Registered Representative, Middle Village, New York)** were named as respondents in an NASD complaint alleging that they, directly or indirectly, by the use of any means or instrumentality of interstate commerce of the mails or of any facility of any national securities exchange, knowingly or recklessly employed manipulative or deceptive devices or contrivances in connection with the purchase or sale of securities; knowingly or recklessly effected transactions in, or induced the purchase or sale of securities by means of manipulative, deceptive, or other fraudulent devices or contrivances; or made untrue statements of material fact and omitted to state material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading. The complaint alleges that Marcus and Montaino engaged in a "pump and dump" manipulative scheme using a thinly traded, low-priced stock listed on the OTCBB. The complaint further alleges that Montaino aggressively solicited retail customers to purchase the security through a campaign of omissions and misrepresentations and Marcus placed day limit purchase orders for shares of the security with a market maker nearly every day at increasingly higher prices to create the appearance of interest and activity even though he had no customer purchase orders. In addition, the complaint alleges that Marcus aided and abetted the manipulative trading of others. **(NASD Case #CAF010025)**

**Aaron Simon Morris (CRD #2691021, Registered Representative, Hollywood, Florida)** was named as a respondent in an NASD complaint alleging that by use of the means or instrumentalities of interstate commerce, or of the mails, or of any facility of any national securities exchange, he employed a device, scheme, or artifice to defraud, omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, or engaged in acts, practices, or a course of business which operated, or could operate, as a fraud or deceit upon persons in connection with the recommendations he made to public customers to purchase stock. **(NASD Case #C3A020006)**

**Curtis William Triggs, Jr. (CRD #3184470, Registered Representative, St. Louis, Missouri)** was named as a respondent in an NASD complaint alleging that a document entitled "Customer Account Check Request" was completed bearing a public customer's name and signature requesting a check for the customer in the amount of \$68,252.09 without the customer's knowledge or consent. The complaint further alleges that Triggs attempted to misuse the customer's funds in that he obtained a cashier's check without the knowledge or consent of the customer in the amount of \$68,249.09 and directed that the funds be applied to his defaulted mortgage. The complaint also alleges that Triggs failed to respond to NASD requests for information or to appear for an on-the-record interview. **(NASD Case #C04020006)**

**Firms Expelled For Failing To Pay Fines And/Or Costs In Accordance With NASD Rule 8320**

**Centex Securities Corp.,**  
La Jolla, California  
(February 8, 2002)

**Logan Rock,**  
Arlington, Virginia  
(February 8, 2002)

**NI Securities Corp.,**  
Akron, Ohio  
(February 8, 2002)

**Protective Group Securities Corporation,**  
Minneapolis, Minnesota  
(February 8, 2002)

**Firm Suspended For Failure To Supply Financial Information**

The following firm was suspended from membership in the NASD for failure to comply with formal written requests to submit financial information to the NASD. The actions were based on the provisions of NASD Rule 8210 and Article VII, Section 2 of the NASD By-Laws. The date the suspension commenced is listed after the entry. If the firm has complied with the requests for information, the listing also includes the date the suspension concluded.

**Hudson Sloane & Co., L.L.C.,**  
New York, New York  
(February 19, 2002)

**Firms Suspended Pursuant To NASD Rule Series 9510 For Failure To Comply With An Arbitration Award Or A Settlement Agreement**

**American Pacific Securities, Inc.**  
San Clemente, California  
(February 20, 2002)

**Grady and Hatch & Company, Inc.,**  
Staten Island, New York  
(February 5, 2002)

**Individuals Barred Pursuant To NASD Rule 9544 For Failure To Provide Information Requested Under NASD Rule 8210. (The date the bar became effective is listed after the entry.)**

**Belski, Raymond J.**  
St. Mary's, Georgia  
(February 14, 2002)

**Foster, Karl H.**  
Toledo, Ohio  
(February 15, 2002)

**Garcia, Ruben**  
Chappaqua, New York  
(February 5, 2002)

**Latson, Jr., David L.**  
Miami, Florida  
(March 1, 2002)

**Levin, Stephanie S.**  
New York, New York  
(January 24, 2002)

**McCall, Joseph**  
Charlotte, North Carolina  
(February 22, 2002)

**Shiflett, Vernon W.**  
Powell, Ohio  
(March 1, 2002)

**Syken, Elisa D.**  
Hollywood, Florida  
(February 19, 2002)

**Individuals Suspended Pursuant To NASD Rule 9541(b) For Failure To Provide Information Requested Under NASD Rule 8210. (The date the suspension began is listed after the entry.)**

**Branstetter, Jr., Robert Lee**  
Boca Raton, Florida  
(February 6, 2002)

**Branstetter, Todd Robert**  
Boca Raton, Florida  
(February 6, 2002)

**Elmore, Dwann S.**  
San Diego, California  
(February 6, 2002)

**Frain, Michael W.**  
St. Charles, Missouri  
(February 6, 2002)

**Hentschel, III, Frederick J.**  
Bayside, New York  
(February 4, 2002)

**Marcotte, Lori M.**  
Jefferson, Louisiana  
(February 5, 2002)

**Russo, Thomas A.**  
Staten Island, New York  
(February 6, 2002)

**Tirovolas, Dimos S.**  
Lindenhurst, New York  
(February 4, 2002)

**Torres, Guido A.**  
Miami, Florida  
(February 19, 2002)

**Individuals Revoked For  
Failing To Pay Fines And/Or  
Costs In Accordance With  
NASD Rule 8320**

**Biddick, Bruce**

Rancho Santa Fe, California  
(February 8, 2002)

**Chepak, John A.**

West Harrison, New York  
(February 8, 2002)

**Flynn, Scott D.**

Highlands, New Jersey  
(February 8, 2002)

**Gerace, Joseph G.**

S. Laguna, California  
(February 8, 2002)

**Ronk, Thomas C.**

Corona Del Mar, California  
(February 8, 2002)

**Sitomer, Richard A.**

New York, New York  
(February 8, 2002)

**Waddell, Charles K.**

Oklahoma City, Oklahoma  
(February 8, 2002)